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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,571	05/02/2001	Cyrus Peikari		5626

7590 12/21/2004
Cyrus Peikari
6242 Walnut Hill Ln
Dallas, TX 75230

EXAMINER

BONZO, BRYCE P

ART UNIT	PAPER NUMBER
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2114

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,571

Applicant(s)

PEIKARI, CYRUS

Examiner

Bryce P Bonzo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-19 is/are allowed.
- 6) ☒ Claim(s) 1-14 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

NON-FINAL OFFICIAL ACTION

Status of the Claims

Claims 1-14 and 20 are rejected under 35 USC §112, first paragraph.

Claims 15-19 are allowed.

Rejections under 35 USC §112, first paragraph

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-14 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

These claims all recite a limitation similar to claim 1's:

(c) means for calculating a second number, wherein said second number represents a maximum number of diagnostic processes that can be supported by said amount of available memory,

The Examiner is unable to determine how Applicant has calculated the maximum number of diagnostic processes supported. Applicant has clearly shown gathering data

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the available memory available data, but not to determine how much memory a particular diagnostic process will require. Diagnostic processes are notoriously well known for being memory hogs and having memory footprints which vary widely with time. Anti-virus programs, in particular, are infamous for this. A simple estimation of a process's memory usage is not possible due to this. Further more, Applicant has not included that estimation, if it was possible. No detail has been provided on the one feature of these claims that clearly is lacking in the prior art: calculating how much memory a diagnostic process requires (specifically an anti-virus process). Page 8, lines 3-6 acknowledge this problem. Applicant establishes value MAX2 may in fact be wrong and why, but never establishes how MAX2 was derived.

The Examiner is not stating that Applicant has not invented the presently claimed invention. It is the contention of the Examiner that the Applicant has failed to disclose invention in a manner which prevents undo experimentation by one of ordinary skill in the art to make or use the invention.

Allowable Matter

Claims 15-19 are allowed.

The following is an examiner's statement of reasons for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance." The Applicant is reminded that claims are

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allowed as a whole, and any modification to the claims may jeopardize this indication of allowability.

As per claim 15:

A method for diagnosing a host computer system, wherein said diagnosing includes virus scanning, said host computer system including at least one processor, an operating system, and one or more memory arrays, comprising the steps of:

(a) determining a maximum number of diagnostic processes that can be simultaneously supported by said operating system,

(b) running multiple diagnostic processes, wherein said multiple diagnostic processes include scanning for computer viruses or corrupted data files, and wherein the number of said multiple diagnostic processes is less than or equal to the maximum number of processes determined in step (a).

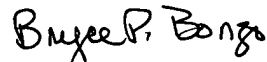
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryce P Bonzo whose telephone number is (571)272-3655. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bryce P Bonzo
Examiner
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